

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

Case No. 1:08CR110 RWS

TIMOTHY JOHNSON,)

Defendant.)

ORDER

This matter is before the Court on Defendant Timmy Nathan Johnson's Motion to Suppress Statements, Tangible Evidence and the Contents of Any Electronic Surveillance [Document #36].

Pursuant to 28 U.S.C. § 636(b), the motions were referred to United States Magistrate Judge Lewis M. Blanton. The government filed a written response in opposition to the motion of the defendant. Judge Blanton conducted an evidentiary hearing on November 25, 2008. The parties filed supplemental briefs after the hearing.

On January 22, 2009, Judge Blanton filed his Report and Recommendations that the defendant's motion be denied. The defendant filed general objections to the Report and Recommendation on January 30, 2009.

I have conducted a *de novo* review the transcripts, the videotape and the


parties briefs. After fully considering the motions and the Report and Recommendations, I will adopt and sustain the thorough reasoning of Judge Blanton set forth in support of his recommendation. Specifically, I find that the officers were invited into Mr. Johnson's home on June 27, 2008. It was also established that Mr. Johnson was not in custody during the search and questioning, and, consequently no Miranda warnings were required. Because the defendant voluntarily consented to the search, the evidence seized from the home, the shed and the defendant's vehicle were properly seized. As a result, the evidence should not be suppressed and is admissible at trial. Additionally, the statements made by defendant were voluntary, should not be suppressed and are admissible. Similarly, the defendant's statements during the interview at the Dunklin County Justice Center on June 30, 2008 were voluntary and may be introduced into evidence.

Finally, the information obtained by Administrative Subpoenas, as well as the trap and trace pen registers met the requirements of law and are admissible.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation of United States Magistrate Judge Lewis M. Blanton [#203] is **SUSTAINED, ADOPTED, and INCORPORATED** herein.

IT IS FURTHER ORDERED that defendant Timmy Nathan Johnson's Motion to Suppress Statements, Tangible Evidence and the Contents of Any Electronic Surveillance [Doc. #36] is denied.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 11th day of February, 2009.